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DEPT FOR T, VC AND EUR/PRA
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AIRFORCE FOR HQ USAF/ASX AND ASXP
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DIA FOR LEA

E.O. 12958: DECL: 11/28/2019
TAGS: [KACT](#) [MARR](#) [PARM](#) [PREL](#) [RS](#) [US](#) [START](#)
SUBJECT: START FOLLOW-ON NEGOTIATIONS, GENEVA
(SFO-GVA-VII): MEETING OF THE INSPECTION PROTOCOL WORKING
GROUP, NOVEMBER 17, 2009

Classified By: A/S Rose E. Gottemoeller, United States
START Negotiator. Reasons: 1.4(b) and (d).

[1](#)1. (U) This is SFO-GVA-VII-031.

[1](#)2. (U) Meeting Date: November 17, 2009
Time: 3:30 - 6:00 P.M.
Place: U.S. Mission, Geneva

SUMMARY

[1](#)3. (S) A meeting of the Inspection Protocol Working Group (IPWG) was held at the U.S. Mission on November 17, 2009. The meeting focused on taking a second look at the opening sections of the joint draft text of the Inspection Protocol (IP). The two Parties brought the results of internal technical and legal reviews to the discussion and were prepared to agree on some issues and provide more detailed rationale on others. The IPWG members discussed the title, introductory chapeau, Section I - General Obligations, Section II - Provisions Concerning the Legal Status of Inspectors, Monitors, and Aircrew Members, Section III - Arrangements for Transportation, and Section IV - Activities Beginning Upon Arrival at the Point of Entry. At the conclusion of the meeting, it was agreed that the four sections discussed could be sent to the Conforming Group, with references to monitoring left in brackets. All remaining questions either concerned legal issues or were associated with provisions for continuous monitoring.

14. (S) Subject Summary: Throwing Down the Conforming Gauntlet; The Legalities of Inspector Lists; Privileged Inspectors; Getting the Inspectors There; Getting Through the Point of Entry; and, Starting the Inspection - Choices, Choices.

THROWING DOWN THE
CONFORMING GAUNTLET

15. (S) Colonel Ilin opened the meeting noting that he had recently read the document describing the conforming process, which had been provided by the U.S. side during an earlier Conforming Group meeting and that today we were to challenge our colleagues performing the conforming work. Dr. Warner stated that the working group would be reviewing the material in the first four sections of the Inspection Protocol. The co-chairs agreed that their respective reviews had revealed much common ground. Ilin commented that the primary outstanding issue was continuous monitoring.

16. (S) Discussion of the text began with the title of the Protocol. Alternatives included "Procedures for Inspection Activities" and "Inspections, Visits, and Exhibitions" before the co-chairs agreed upon "Inspection Activities" while the phrase "and Continuous Monitoring Activities" remained in brackets. The introductory chapeau was agreed, other than a reference to continuous monitoring. Paragraph 1 of Section I on the conduct of inspection activities was accepted as agreed language, with both sides having accepted the term

"inspection activities." Both Parties agreed that the collective term would be used throughout the Protocol, where it was appropriate. After some discussion, it was agreed that paragraph 2, whereby each Party committed in a blanket statement to provide the notifications called for in the Notifications Section of the Protocol, was also accepted.

THE LEGALITIES OF INSPECTOR LISTS

17. (S) The discussion moved to the legal status provisions of Section II. In paragraph 1, on transportation of the inspectors, all of the language (with the exception of "monitors") was accepted, including the Russian proposal to include Open Skies aircraft as an acceptable transportation means for the delivery of inspectors into and out of points of entry (POEs). In paragraph 2, there was a compromise on the size of the inspector list at 300 inspectors. A second provision within the paragraph stated that the inspectors were to be citizens of the inspecting Party (as under START); the Russian text also included aircrew members under that provision. After some discussion of the U.S. practice of using, in some cases, aircrew who were legal residents but not citizens of the United States, and the legal status of these individuals when they traveled as inspection airplane crew members, it was agreed that the U.S. and Russian legal advisors would resolve the issue and provide appropriate language.

18. (S) The U.S.-proposed paragraph 3 provided for agreement or objection to inspectors and aircrew members by means of a notification. Warner agreed to delete the provision based on the previous reference to the Notifications Protocol in paragraph 2 of Section I, agreement on the notification by both Parties, and the reference to agreement or objection in the following paragraph. The co-chairs came to agreement on paragraph 4, on the updating of inspector lists, after Warner agreed to remove references to the notification section, on the grounds that the notification section of the protocol would contain the obligation to notify, and the sides compromised on a 45-day maximum update period for the list of inspectors. Paragraph 5, on the identification information included in the inspector list, was agreed other than the reference to monitors.

¶9. (S) Paragraph 6 was intended to cover initial exchange of inspector lists, notifications for amendments, and the provision of visas for the individuals on them. After some discussion and an agreed re-write to more clearly address these elements, the text for this paragraph was agreed. The U.S. version of paragraph 7 included the provision that proposed inspectors could be denied only based on a criminal indictment or conviction. After some discussion, Ilin and Warner agreed to refer the question to the legal advisors for discussion and resolution. Paragraphs 7 through 9 of the Russian version specified the numbers of inspectors for exhibitions and two types of inspections. Warner stated that if the Parties could agree on one number for the size of the inspection team for all three types of inspection activities, the provision could be moved up to the treaty level; if not, it would more appropriately be covered in Section V - General Rules, where the U.S. version included it. Ilin responded

that the Russian numbers had not changed, but that the provisions could be moved to Section V and recast into a single paragraph.

PRIVILEGED INSPECTORS

¶10. (S) Paragraph 8 addressed the privileges and immunities to be accorded inspectors and aircrew as they carried out their duties. After some discussion about whether the chapeau and/or extended paragraph belonged in Tier 1 or Tier 2 of the treaty, it was agreed to keep the provisions at Tier 2 and in this location. The end of the chapeau, addressing extension of immunity for "acts previously performed" after the end of an inspector's assignment, was left bracketed for review by the legal advisors. Subparagraphs (a) through (h) addressed cases of privileges or immunities specific to the exercise of inspection functions. Subparagraph (a) was agreed language other than the waiving of immunity from jurisdiction if a Party chose to do so. Warner agreed to delete this provision because it was adequately covered by existing diplomatic practice and customary international law.

In the remainder of this paragraph, subparagraphs (c) and (d) were agreed completely, while subparagraphs (b), (e), (f), (g), and (h) were agreed other than references to continuous monitoring.

GETTING THE INSPECTORS THERE

¶11. (S) Discussion of Section III began with the title; the Russian version was "Air Transportation" while the U.S. version was "Transportation" because of the separate subsections for air and ground transportation included therein. Paragraph 1, on establishing points of entry, was agreed except for a reference, included in the U.S. version, to where POEs were to be listed. Ilin agreed that the MOU was the appropriate location. The context of the first paragraph 2 was continuous monitoring. The second paragraph was a Russian provision that was intended to identify the airports at the POEs that could be used by inspection aircraft, Open Skies, and commercial aircraft in transporting inspectors and equipment to and from the POEs. After some discussion, it was decided that these ideas could be incorporated into paragraph 1 and paragraph 2 was deleted.

¶12. (S) Paragraphs 3, 4, and 5 were agreed other than their references to continuous monitoring. Paragraph 6, the Russian-proposed provision for use of Open Skies aircraft, was accepted by the U.S. delegation. Paragraph 7 provided for flight routes to be listed in the MOU and flight plans to be filed in accordance with notifications. After a brief discussion, Ilin agreed to accept this provision. Paragraph 8, listing the payment for services required in handling inspection aircraft on the territory of the inspected Party, was a subject of genuine disagreement. The Russian version

showed airplane parking and security costs to be borne by the inspecting Party rather than inspected Party, as had been the accepted practice under both the START and INF Treaties. Warner stated that the United States could not agree to this and, after Ilin reiterated the rationale for the Russian

approach, it was agreed this issue would have to be addressed at higher levels. The Ground Transportation subsection focused entirely on continuous monitoring activities was left bracketed.

GETTING THROUGH THE POINT OF ENTRY

¶13. (S) The discussion moved to Section IV - Activities Beginning at the Point of Entry. Paragraph 1 focused on the arrival of the inspection team at the point of entry and the in-country escort meeting them and expediting their entry. The U.S. Delegation accepted the Russian text that called for the baggage and equipment of the inspecting team to be exempt from taxes, which left only provisions on continuous monitoring bracketed in the text. Both paragraphs 2 and 3 were agreed other than continuous monitoring provisions. Paragraphs 4 (examination of equipment to ensure it cannot perform unintended functions) and 5 (examination of equipment at the POE) were combined and re-written to incorporate common language. After some discussion to ascertain from where the various parts of the text had been extracted, Ilin agreed to the inclusion of examination procedures in Annex 5 and the new paragraph was fully agreed other than continuous monitoring provisions.

STARTING THE INSPECTION
- CHOICES, CHOICES

¶14. (S) The original paragraph 6 from this section, on storage of equipment at the POE, was incorporated into paragraph 1. The second portion of 6, on designating the site and type of inspection to be performed, was the subject of a limited discussion because of a difference between the U.S. and Russian versions in specifying the timing of the designation. The U.S. version of the text made the timing clear by tying it to the time of site designation listed in the notification (START Format 116, in the case of START inspections) provided approximately 24 hours in advance of the inspection team's arrival at the POE. Ilin agreed to this approach and the paragraph became fully-agreed text.

¶15. (S) Paragraph 7 was introduced as a rewritten version of what had been paragraphs 9 and 10, on the options available to the inspection team leader if there are no ICBMs or SLBMs or a reduced number of heavy bombers at the base chosen for inspection. With the appropriate name of the inspection to be filled in, Ilin agreed to the text in subsections (a) and (b), but stated that subparagraph (c) on sequential inspections would need to remain bracketed. Warner made the case that, as the delegations discussed increasing numbers of inspections over the original Russian proposal of five inspections of each kind, sequential inspections would become increasingly attractive to both sides. Ilin made no comment. Paragraph 8, on the procedures to be followed in dealing with mass media, was discussed from the perspectives of both Parties. The U.S. version referenced procedures defined in Annex 3, while the Russian version stated that procedures would be specified by the inspected Party. It was agreed that the provision would be discussed by U.S. and Russian

legal advisors.

¶16. (S) Warner and Ilin agreed that all four sections were ready to be sent to the Conforming Group. Warner and Ilin's next meeting was to be a one-on-one discussion of Treaty Article XI.

¶17. (U) Documents exchanged. None.

¶18. (U) Participants:

U.S.

Dr. Warner
Mr. Brown
Mr. Buttrick
Mr. Couch
LCDR Feliciano
Maj Johnson
LTC Leyde
Ms. Pura
Mr. Sims
Mr. Smith
Ms. Gross (Int)

RUSSIA

Col Ilin
Mr. Ivanov
Col Petrov
Mr. Vorontsov
Col Zaitsev
Ms. Komshilova (Int)

¶19. (U) Gottemoeller sends.
GRIFFITHS